

### **Grounds of Opposition to EP 1663809**

Statement of facts and arguments of Opposition to European Patent No. 1663809 B1, granted to Obrist Closures Switzerland GmbH on October 15, 2008 and corresponding to European patent application No.03762682.7. The Patent is opposed in its entirety.

Opposition submitted by the Procter & Gamble Company.

#### **EP 1 663 809**

EP 1 663 809 was filed on June 8, 2003 was granted with eleven claims consisting of one independent claim (claim 1) and ten dependent claims (claims 2-11), hereinafter referred to as the Patent. The Patent claims priority from an earlier European patent application filed on July 7, 2002, EP 02254680.

Independent claim 1 of the patent relates to a water-soluble container comprising one or more discrete chambers for containing product, wherein at least part of the wall of the or at least one of the chamber/s is adapted to dissolve before the remainder of the chamber to allow the product to escape, characterised in that at least part of the wall adapted to dissolve before the remainder of each chamber defines a panel and at least part of the wall at least partly surrounds the panel, such that when at least part of the wall dissolves the panel is either partly or completely released undissolved.

Dependent claims 2-11 relate to different embodiments of the alleged invention.

#### **The problem as defined by the description of EP 1 663 809**

The subject matter of the patent relates to the problem of providing a water-soluble container comprising one or more discrete chambers to provide the sequential release of multiple products, without requirement of complete dissolution of the water-soluble container.

The solution described is to provide a water-soluble container comprising one or more discrete chambers wherein at least part of the wall of the chamber or at least one of the chambers is adapted to dissolve before the remainder of the wall or chamber, to allow the product to escape, without requiring the complete dissolution of the water-soluble container.

#### **Claim interpretation**

The claim seems oddly written and thus requires some level of interpretation in order to fully understand its meaning.

The claim requires that at least part of the wall or at least one of the chamber/s is adapted to dissolve before the remainder of the chamber to allow the product to escape. By way of example the patentee offers that the wall, at this point, is made from a thinner or a different material having different dissolution

properties than the remainder or the wall or chamber so as to dissolve first. This part of the wall adapted to dissolve before remainder of each chamber defines a panel, but only at least partly surrounds the panel. Hence part of the wall, which is made from thinner or different material, having different dissolution properties will define a panel, however the fast dissolving wall does not need to surround the panel. Hence a line or point of weakness is envisaged.

#### Sufficiency

The patent alleges a sequential release of multiple products from a water-soluble container comprising one or more chambers by having at least part of a wall or chamber adapted to dissolve before the remainder of the chamber. Allegedly the at least part of the wall is formed by thinning the material or by forming part of the wall with a different material having different dissolution properties. The material thinning in the walls is described in the patent to be done by reducing a small part of the uniform thickness of the container (Figure 3, parts 20 and 27). However there is no example and no description of how such reduction is to be achieved. Moreover there is no example and no description of how such container can be formed from different materials.

It is therefore submitted that the patent does not describe the alleged invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

#### Prior Art

The Opponent will show that the patent lacks novelty and inventive step in view of the prior art listed below:

- D1: EP 1 161382 (Unilever PLC)
- D2: WO 01/83668 (Procter & Gamble Company)
- D3: GB 2 375 516 (Reckitt Benkiser UK Limited)
- D4: WO 03/016165 (Warner-Lambert Company)

#### Lack of Novelty

##### Lack of Novelty in view of D1

D1 relates to a water-soluble package comprising a fluid substance which is released on dissolution of the package. The water-soluble package is made by thermoforming the water-soluble film.

D1 as a whole discloses a water-soluble container. Page 6, paragraph [0031] describes thermoforming generally and the fact that film thinning always takes place on thermoforming. Page 5, paragraph [0027] of D1 even describes, by way of a diagram, which parts of the package are thinner. Hence, when referring to the patent, corners (D) and horizontal edges (C) form "the at least part of the wall". Since the corners dissolve first, the package then release center base (E), which thus forms the panel (see page 5, paragraph [0027]). Areas C and D of D1 surround area E completely.

It is therefore submitted that the D1 describes the features of the Patent and the Patent therefore lacks novelty over the disclosure of D1.

Lack of Novelty in view of D2

D2 relates to free-flowing compositions in a pouch having one or more compartments. The pouch is made of water-soluble stretchable material.

D2 as a whole discloses a water-soluble container. At page 7, lines 29-32 and page 8, lines 2-6 D2 discloses thinning of the water-soluble film. Page 11, lines 10-19 discloses coating of the film with a substance designed to delay dissolution. The coated film is then stretched and coating is cracked. This arrangement therefore forms a film with multiple "at least parts of the wall" and panels, which are formed from the areas of film which are coated.

It is therefore submitted that D2 describes the features of the Patent and therefore the Patent lacks novelty over the disclosure of D2.

Lack of Novelty in view of D3

D3 relates to a water-soluble injection moulded container comprising a receptacle part and a sealing part which are joined together by a hinge part.

D3 discloses a water-soluble injection moulded container. Page 9, lines 1-15 of D3 disclose thickness differences for different parts of the container. Page 9, lines 16-17 then goes on to explain that the sealing part dissolves preferably in water before the receptacle part. Page 10, lines 26 – 32 and page 11, lines 1-3 of D3 describe the hinge part. The hinge part is equivalent to "the at least part of the wall" of the patent. Hence the sealing part forms a panel (see page 10 line 26).

D3 describes different thicknesses for the receptacle, sealing and hinge part. In one embodiment the hinge part is the thinnest part and therefore forms "the at least part of the wall". The hinge partly surrounds the second thinnest, sealing part, which therefore forms the panel. Dissolution of the hinge part will fully or partially release the sealing part.

It is therefore submitted that D3 describes the features of the Patent and therefore the Patent lacks novelty over the disclosure of D3.

Lack of Novelty in view of D4

D4 relates to a water-soluble package comprising one or more chambers containing product.

D4 as whole discloses partially or completely water-soluble packaging for sequential release of substances. Page 7, lines 26-28, page 8, lines 1-4 and page 12, lines 14-22 of D4 discloses thickness differences and different packaging material for different parts of the container. Page 19, lines 10-13 of D4 describes an easy dissolving packaging material band (13), which therefore forms "the at least part of the wall" according to the patent. The capsule walls (11d) therefore form the panels.

In one embodiment (figures 1e and 1f) the easy dissolving packaging material band (13) is adapted to dissolve prior to the remainder of the chamber. The easy dissolving packaging material band (13) forms "the at least part of the wall" and defines the panels (11d). Dissolution of easy dissolving packaging material band (13) will fully or partially release capsule walls (11d).

It is therefore submitted that D4 describes the features of the Patent and therefore the Patent lacks novelty over the disclosure of D4.

#### **Lack of Inventive Step**

The technical problem addressed by the Patent is to provide a water-soluble container comprising one or more discrete chambers to provide a sequential release of multiple products, without the requirement of complete dissolution of the water-soluble container.

The patent allegedly solves the problem describing at least part of a wall, which is adapted to dissolve before the remainder of the wall or the chamber. "The at least part of the wall" defines a panel by surrounding the panel partially or completely. When the "at least part of the wall" dissolves, the panel is either partly or completely released, undissolved, to release the product from the water-soluble container.

The claims of the patent are found to lack inventive step over the documents discussed above.

Taking this technical problem as the starting point for the "problem-solution" approach to inventive step, it is submitted that D1 should be taken as the closest prior art because D1, is also concerned with a water-soluble container to provide a release of product. Additionally document D2 also solves the same technical problem.

Document D1 provides water-soluble package, and discloses the same features as the Patent to provide sequential release of the product. When the water-soluble package according to D1 is in water, the corners (D) and horizontal edges (C) dissolve first and release the centre base E either in full or partially to release the liquid from the water-soluble package.

It is thus respectfully submitted that a skilled person starting from D1 would have arrived at the alleged invention as claimed in the patent without any inventive activity. It is therefore submitted that the Patent lacks inventive step over the disclosure of D1.

Alternatively, we can start from D2 as the closest prior art. Document D2 provides water-soluble pouch, and discloses the same features as the Patent (at least parts of the walls and panels) to provide sequential release of the product. D2 describes how water penetrates through or dissolves the thinnest parts of the pouch first, releasing the content of the pouch without the need for the complete dissolution of the pouch. Additionally when thinner areas between the panels dissolve first, the panels in between are released, releasing the liquid from the pouch.

It is thus respectfully submitted that a skilled person starting from D2 would have arrived at the alleged invention as claimed in the patent without any inventive activity. It is therefore submitted that the Patent lacks inventive step over the disclosure of D2.

D1 and D2 both solve the same technical problem in the same way as the Patent. Therefore there is no difference between that which is discussed in the prior art and the patent, and thus there can be no objective problem and, equally, no invention.